

The Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

GEORGE F. KARL, III,

Plaintiff,

v.

RICHARD V. SPENCER, Secretary of the
Department of Navy,

Defendant.

Case No. 17-05773 BHS

DEFENDANT’S REPLY TO MOTION TO
COMPEL RESPONSES TO DISCOVERY

COMES NOW defendant Richard V. Spencer, Secretary of the Department of Navy, by and through his attorneys, Annette L. Hayes, United States Attorney for the Western District of Washington, Priscilla T. Chan and Sarah K. Morehead, Assistant United States Attorneys for said District, and files this reply regarding its motion to compel plaintiff to provide complete responses to Defendant’s First Set of Interrogatories and Requests for Production to Plaintiff (the “discovery requests”).

After being served with the discovery requests on August 1, 2018, plaintiff responded to the discovery requests over four months later, on December 10, 2018, the day his response to this motion to compel was due. Second Morehead Decl. at ¶ 5. Plaintiff only responded to the discovery requests after defendant filed a motion to compel. *Id.* Defendant is still in the process

1 of reviewing the responses to determine their sufficiency. *Id.*

2 Regarding plaintiff's months-long refusal to meet and confer about his overdue discovery
3 responses, plaintiff's counsel claims to have missed every single one of defense counsel's
4 numerous voicemail and email messages about the overdue responses and requesting to meet and
5 confer. Dkt. #15 at p. 1. Even if that were true, plaintiff still has not explained his failure to
6 respond to discovery requests for over three months after responses were due and refusal to
7 respond until after the motion to compel was filed. Second Morehead Decl. at ¶ 7. Plaintiff has
8 no justification for blatantly ignoring his discovery obligations.
9

10 Defendant defers to the Court about the appropriate remedy. At a minimum, defendant
11 seeks to recover his attorney's fees for filing the motion and this reply, which amount to \$588.60
12 as set forth in the Second Declaration of Sarah Morehead. Second Morehead Decl. at ¶ 4. In
13 addition, given that plaintiff refused to respond to the discovery requests until defendant filed a
14 motion to compel, and plaintiff has offered no excuse or justification for this behavior, defendant
15 seeks an order reminding plaintiff of his discovery obligations and admonishing him that any
16 further discovery abuse will result in sanctions, up to and including dismissal.
17

18 DATED this 14th day of December, 2018.
19

20 Respectfully submitted,

21 ANNETTE L. HAYES
22 United States Attorney

23 s/ Priscilla T. Chan
24 PRISCILLA T. CHAN, WSBA #28533

25 s/ Sarah K. Morehead
26 SARAH K. MOREHEAD, WSBA #29680
27 Assistant United States Attorneys
28 United States Attorney's Office

700 Stewart Street, Suite 5220
Seattle, Washington 98101-1271
Phone: (206) 553-7970
Email: Priscilla.Chan@usdoj.gov
Email: Sarah.Morehead@usdoj.gov

Attorneys for Defendant Spencer

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the United States Attorney's Office for the Western District of Washington, and that I am of such age and discretion as to be competent to serve papers;

I further certify that on December 14, 2018, I electronically filed the foregoing document and the Declaration of Sarah Morehead with exhibits with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participant(s):

Chalmers C. Johnson: chalmers@gsjoneslaw.com

I further certify that on December 14, 2018, I mailed by United States Postal Service the foregoing document to the following non-CM/ECF participant(s)/CM/ECF participant(s), addressed as follows:

-0-

Dated this 14th day of December, 2018.

s/ Julene Delo
JULENE DELO
Legal Assistant
United States Attorney's Office
700 Stewart Street, Suite 5220
Seattle, Washington 98101-1271
Phone: (206) 553-7970
Email: Julene.Delo@usdoj.gov